IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE TWENTY SECOND DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE B. SUDERSHAN REDDY

and

THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT APPEAL Nos.344, 345, 346 and 347 of 2005

W.A.No.344 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 24/02/2005 in W.P. No.2749 of 2005 on the file of the High Court.)

Between:

1 The Govt. of A.P., Revenue (Excise.II) Department, Secretariat,

Hyderabad.
2 The Commissioner, Proh& Excise, Hyderabad.
3 The Prohibition & Excise Superintendent, Ongole, Prakasam District.

..... APPELLANTS

AND

1 A. Hanumantha Rao, S/o. Anjaneyulu,
D.No.5-17, Martoor, Prakasam District.
2 K. Venkatarayudu, S/o. Krishnaiah, 45
D.No. 15-136/5/2, Addanki, Prakasam District.
3 A. Rajendra Prasad, S/o. Thandava Krishnaiah,
Anantavaram, Ongole, Prakasam District.
4 B. Mohan Rao, S/o. Ramaiah,
MOhan Wines, D.No. 8-56, Purchur, Prakasam District.
5 A. Yella Reddy, S/o. Meera Reddy,
D.No. 1/98, Chandavaram, Ongole, Prakasam District.
6 Shaik Musamiya, S/o. Isamiya,
D.No. 10/187, Donakonda, Prakasam District.
7 Shaik Dayali, S/o. Masthan,

Donakonda, Prakasam District.

8 B. Venkatachalapasthi Rao, S/o. Venkata Subba Rao,
D.No. 1-63, Kurchedu, Prakasam District.

9 M. Malakonda Reddy, S/o. Malakonda Reddy,
Chintalapalem, Prakasam District.

10 M. Venkata Suri Babu, S/o. Aswadha Narayana,
D.No. 8/69, Kanigiri, Prakasam District.

11 B. Venkata narayana, S./o. Malakondaiah,
D.No. 5-1(a), Kanigiri, Praksasam District.

12 M. Dayakar aReddy, S/o. Papi Reddy,
D.No. 7-220 Kanigiri, Prakasam District.

13 M. Bala Hanumanthu, S/o. Anjaiah,
D.No. 8-166, Kanigiri, Prakasam District.

14 P. Ramesh, S/o. Pitchaiah,
D.No. 2/203, Kanigiri, Prakasam District.

15 M. Malakonda Reddy, S/o. Malakonda Reddy, 47
D.No. 2/203, Kanigiri, Prakasam District.

16 A. Brahmaiah, S/o. Tirupalu,
Main Road, Kanigiri, Prakasam District.

17 Shaik Ahmed Basha, S/o. Khajjawali,
D.No. 9-142, Kanigiri, Prakasam District.

18 S. Mohan Reddy, \S/o. Venkataiah,
D.No. 7/13, Kanigiri, Prakasam District.

19 Sk. Ahmed, S/o. Lal Saheb,
Sri Dattasai Towers, Laywerpet, Ongole, Prakasam District.

20 B. V. Subba Rao, S/o. Lakshmaiah,
Nellore Bus Stand, Ongole, Prakasam District.

21 Sk. Miravali, S/o. Hussain Saheb,
Medarametla, Prakasam District.

22 K. Sudhir Babu, S/o. Nageswara Rao,
M/s. Ramathirtham, Chimakurthy Mandal, Prakasam District.

23 Kulwanth singh Mehra, S/o. Swarna Singh Mehra,
Kalyani Wines, Gullapalem, Maddipadu Mandal,
Prakasam District.

24 M. Narasimha, S/o. Hanumantha Rao,
M/s. Venkateswara Wines, Maddipadu, Maddipadu(M), Prakasam District.

25 P. Prasad, S/o. Malkondaiah,
M/s. Srinivasa Wines, Kurnool Road, Near Vijaya Co. Ongole,
Prakasam district.

26 V. Venkateswarlu, S/o. Ramachandraiah,
M/s. Sri Venkataramana Wines, Ongole, Prakasam District.

27 M. Rajendra Kumar, S/o. Nagaraju,
M/s. Hanuman Wines, Srinivass Sridevi Theatre Road, Ongole,
Prakasam District.

28 M. Srinivasa Rao, S/o. Malyadri Naidu,
M/s. Sri Venkateswara Wines, RTC Depot, Kurnool road, Ongole,
Prakasam District.

29 Alla Venkataswami, S/o. Pochaiah,
M/s. Bhavani Wines, Opp: RTC Depot, Ongole, Prakasam District.

30 V. Srimannarayana, S/o. Chenchuramaiah,
M/s. Jyothi Wines, Nellore Bus Stand, Ongole, Praksam District.

31 G. Suresh, M/s. Sri sai Hanuman Wines,
Bye Pass Centre, Ongole, Prakasam District.
32 Y. Nageswara Rao, s/o. Subbaiah,
M/s. Vengamamba Wines, Palakendram Centre, Pernamitta, S.N. Padu

Mandal, Prakasam District.
33 K. Sudhakar, s/o. Krishna Murthy,
M/s. Sri Ganapathi Wines, Yerrajarla, Ongole Mandal, Prakasam District.
34 G. Venkat Rao, S/o. Rangaiah,
M/s. Sri Ganapathi Wines, Yerrjarla, Ongole Mandal,
Prakasam District.
35 P. Krishna Murthy, S/o. Chinthaiah,
M/s/ Sri Raja Rajeswari Wines, M Nidamaluru, Tangutur Mandal,
Prakasam District.
36 G. Hari, S/o. Narasimham,
M/s. Lakshmi Narasimha Wines, Konjedu, Tangutur Mandal, Prakasam

District.

37 P. Chinthaiah, S/o. Krishna Murthy,
M/s. Laxmi Tirupathamma Wines, IOC Centre, Tangutur Mandal,
Prakasam District.
38 B. Chandrababu, S/o. Kotaiah,
Dalhpine wines, Nellore Bus Stand, Ongole.
39 M. Venkatarao, S/o. Krishna Murthy,
M/s. Suresh Wines, Railway Station Centre, Ongole, Prakasam Distrit.
40 J. Brahmaiah, S/o. Narayana,
M/s. Tirumala Wines, Addanki bus Sand Cenre,
Ongole, Prakasam District.
41 M. Rajendra Prasad, S/o. Kondal Rao,
M/s. Sri Kanakamahalakshmi wines, K.P. Bus Stand,
Ongole, Prakasam District.
42 M. Annapurana, W/o. Venkat rao,
M/s. Sri Venkateswara Wines, Kadavakuduru, Chinna Ganzam Mandal,
Prakasam District.
43 B. Haribabu, S/o. Ramalingaiah,
M/s. Prakash Wines, Nav Bharat Theatre Centre, Ongole, Prakasam District.
44 K. Ram Babu, S/o. Papa Rao,
M/s. K.P. Wines, Miryala Palem Centre, Ongole, Prakasam District.
45 P.V. Krishna Rao, S/o. Satyanarayana,
M/s. S.V.S. wines, Edugundla Padu, Maddipadu Mandal,
Prakasam District.
46 J. Pulla Reddy, S/o. Yella Reddyi,
M/s. Painadu wines, Gullapalli, maddipadu Mandal, Prakasam District.
47 M. Venkateswarlu, S/o. Chenchaiah,
M/s. Sri Sai Ganga Wines, Yellampalli, Maddipadu Mandal,
Pakasam District.
48 L.N.S. bose, S/o. Subbaiah,
M/s. Srirama Wines, Addanki bus Centre, Ongole, Prakasam District.
49 G. Srihari, S/o. Venkata Narayana,
M/s. Teja Wines, market Centrel, Ongole, Prakasam District.
50 M. Veeraiah Chowdary, S/o. Saryanarayana,
M/s. Balaji Wines, Santhanuthalapadu, .N. Padu Mandal, Prakasam District.

51 G. Sanjay, S/o. Nagaraja Naidu,
M/s. Teja Wines, Timmayapalem, Addanki Mandal,
Prakasam District.
52 K. Anji Babu, S/o. K. Venkataswami,
Ammanabrole, N.G.Padu Mandal, Prakasam District.
53 Ch. Veeraiah Chowdary, S/o. Venkateswarlu,
Karavadi, Ongole Mandal, Prakasam District.
54 N. Prasada Rao, S/o. Pada Malakondaiah,
M/s. Kokila wines, Peda Pavani, Linga Samudram Mandal,
Prakasam District.
55 M. Venkatarao, S/o. Yelamandaiah,
M/s. Sri Venkateswara Wines, Linga Samudram, Linga Samudram Mandal,
Prakasam District.
56 G. Usharani, W/o. Veeraiah,
M/s. Sri Sai Wines, S.N. Padu, S.N. Padu mandal, Prakasam District.
57 M. Anjneyulu, S/o. Subbarayudu,
M/s. Kalyani Wines, N.G. Padu, N.G. Padu (M),
Prakasam District.
58 M. Srinivasa Reddy, S/o. ramana Reddy,
M/s. Sri Sai Wines, Pernamitta, S.N. Padu Mandal, Prakasam District.
59 M. Ramana, S/o. Peda Venkata Subba Reddy,
M/s. Sairam Wines, S.N. Padu, S.N. Padu, Mandal, Prakasam District.

60 P. Krishna Reddi, S/o. Venkat Reddy,
M/s. Raja Rajeswari Wines, Chimakurthy, Chimakurthy Mandal,
Prakasam District.

.....RESPONDENTS

Counsel for the Appellant :THE ADVOCATE GENERAL

Counsel for the Respondents : Sri M.BRAHMA REDDY

W.A.No.345 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 24/02/2005 in WP No.2517 of 2005 on the file of the High Court.)

Between:

1 Government of A.P., Revenue (Excise-II) Department, Secretariat,

Hyderabad, rep. by its Special Chief Secretary to Government.
2 The Commissioner, Prohibition & Excise, Hyderabad.
3 The Prohibition & Excise Superintendent, Krishna District.
4 The District Collector, Krishna District.

..... APPELLANTS

AND

1 Y. Srinivas, (436/2000-01) S/o. Radha Krishna Murthy,
Aged 39 years, Licencee of Sri Srinivasa Wines, Thotla Valluru,
Krishna District.
2 V.V.D.V.N. Prasad, (308/98/99), S/o. V.V.Chowdary,

Aged 38 years Licencee of Krathi Wines, Kandipadu.
3 A. Jagdish Kumar, (58/98/99), S/o. Subash Chandra Bose,

40 years, Licencee of Mithra Wines, Kankipadu, Krishna district.
4 K. Sambasiva Rao,(257/98-99) S/o. Pardhasarathi,

Aged 42 years, Licencee of Surya Wines, Kankipadu.
5 B. Koteswara rao, (263/98-99), S/o. Venkateswararao,
Aged 35 years, Licencee of Raja Wines, Panadhipadu, Krishna District.

.....RESPONDENT(S)

Counsel for the Appellant :THE ADVOCATE GENERAL

Counsel for the Respondents : Sri A.JAGANNATHA RAO

W.A.No.346 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 24/02/2005 in W.P. No.2512 of 2005 on the file of the High Court.)

Between:

1 The Govt. of A.P., Revenue (Excise-II) Department, Secretariat,

Hyderabad, rep. by its Special Chief Secretary to Government.
2 The Commissioner of Prohibition of Excise, Hyderabad.
3 The Prohibition and Excise Superintendent, West Godavari District.
4 The District Collector, West Godavari District.

..... APPELLANTS

AND

1 Jannu Gopi, S/o. Ramulu (373/98-99), M/s. Vinayaka Wines, Akuveedu

Mandal, West Godavari District.
2 B. Lakshmipathi, S/o. Ramakrishna (27/2002-03), M/s. Sri Sai Krishna

Wines, Yerragunta, Akuveedu Mandal, West Godavari District.
3 Papaiah Naidu, S/o. Satyanarayana (571/98-99), M/s. Gopikrishna Wines,
Akuveedu Mandal, West Godavari District.
4 M. Srinivasulu, W/o. Chinnaiah (644/98-99), M/s. Gayathri Wines,
Akuveedu Mandal, West Godavari District.

5 Venkateswar Rao, S/o. Seshagiri Rao (26/2002-03), M/s. Venu Wines,

Apparaopet, Akuveedu Mandal, West Godavari District.
6 P.V. Subbaraju, S/o. Radhakrishna Raju (26/01-02) M/s. Silpa Wines,

Dumpagadapa, Akuveedu Mandal, West Godavari District.
7 M. Subba Rao, S/o. Satyanarayana (137/98-99), M/s. Shilpa Wines,

Dumpagadapa, Akuveedu Mandal, West Godavari District.
8 V. Srirangaraju, S/o. Subbaraju (38/98-99), M/s. Balaji Wines, I.

Bheemavaram, Akuveedu Mandal, West Godavari District.
9 K. Rama Appa Rao, S/o. Kolli Lakshmaiah (25/01-02), Sudha Wines,

Akuveedu Mandal, West Godavari District.
10 Maheswara Rao, S/o. Anjaneyulu (570/98-99), M/s. Pallavi Wines, Undi,

Undi Mandal,West Godavari District
11 Katta Padma, W/o. Ranga Rao (69/98-99), M/s. Vijaya Durga Wines,
Undi, Undi Mandal,West Godavari District
12 M. Vimala, S/o. Apparaju (37/98-99), M/s. Lakshmi Wines,
Undi, Undi Mandal,West Godavari District
13 B.V. Ramaraju, S/o. Subbaraju (36/98-99), M/s. Rama Wines,
Undi, Undi Mandal,West Godavari District
14 K. Ramalinga Raju, S/o. Rajan Raju (116/98-99), M/s. Venkata Rama Wines,
Undi, Undi Mandal,West Godavari District

.....RESPONDENTS

Counsel for the Appellant :THE ADVOCATE GENERAL

Counsel for the Respondents : Sri O.MANOHER REDDY

WRIT APPEAL NO. 347 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 24/02/2005 in W.P. No.2543 of 2005 on the file of the High Court.)

Between:

1 Government of Andhra Pradesh, Rep. by Special Chief Secretary,
Revenue(Excise-II) Department, Secretariat, Hyderabad.
2 Commissioner of Prohibition and Excise, Government of Andhra Pradesh,

Hyderabad.
3 Deputy Commissioner of Prohibition and Excise, Kakinada Division at

Kakinada, East Godavari District.
4 Superintendent of Prohibition and Excise, East Godavari District at

Kakinada.
5 Superintendent of Prohibition and Excise, West Godavari District at Eluru.

..... APPELLANTS

AND

1 M/s. Paradise Wines, Munsif Junction, Kakinada,
rep by its Proprietor, Nagireddy Krishna Murthy, S/o. Manikyam,
aged 74 years, R/o. Kakinada, East Godavari District.
2 M/s. Paradise Wines, Kakinada, rep by its Proprietor, K. Srinivasa Rao,
S/o. Subba Rao, R/o. Kakinada, East Godavari District.
3 M/s. Paradise Wines, Ramachandrapuram,
rep by its Proprietor, N. Srinivasa Prasada Rao, S/o. Krishna Murthy,
aged about 40 years, R/o. Ramachandrapuram, East Godavari District.
4 M/s. Paradise Wines, Velangi,
rep by its Proprietor, K.V.R. Murthy, S/o. Gangadhara Rao,
aged about 40 years, R/o. Velangi, East Godavari District.
5 M/s. Sri Kanya Wines, Amujuru, rep by its Proprietor, K. Radha Krishna,
S/o. V. Rama Rao, aged 51 years,
R/o. Amujuru, East Godavari District.
6 M/s. Paradise Wines, Dangeru,
rep by its Proprietor, Anasuri Suryanarayama, aged 46 years,
R/o. Mandapeta, East Godavari District.
7 M/s. Surya Chandra Wines, Mandapeta,
rep by its Proprietor, M. Babu Rao, S/o. Tatabbai, aged 50 years,
R/o. Mandapeta, East Godavari District.
8 M/s. Brandy Shop, Mandapeta, Alamuru,
rep by its Proprietor, R. Rambabu S/o. Chandra Rao, aged about 48 years,
R/o. Mandapeta, East Godavari District.
9 M/s. Siva Kalyani Wines, Mandapeta,
Rep. by its Proprietor, V. Rama Rao S/o. Surayya, aged 39 yrs,
R/o. Mandapeta, East Godavari District.
10 M/s. Maduri Wines, Z. Medapdu,
Rep. by its Proprietor, O. Lakshman Kumar S/o. O. Surya Bhaskar Rao,
Aged 42yrs., R/o. Z. Medapadu, Mandapeta, East Godavari District.
11 M/s. Brandy shop, Modukuru, Alamuru Mandal,
Rep. by its Proprietor, G. Subba Rao, S/o. Subba Rao, aged 33 yrs,
R/o.Modukuru, Alamuru Mandal, East Godavari District.
12 M/s. Brandy shop,Narsipudi, , Alamuru Mandal,
Rep. by its Proprietor, Smt. Kalla Mangadevi, aged 49 yrs W/o. Late Govindu
R/o.Narsipudi, Alamuru Mandal, East Godavari District.
13 M/s. Siva Kalyani Wines, Chinthaluru
Rep. by its Proprietor, S. Ankala Raju S/o. Satyanarayana,aged 40 yrs,
R/o. D.No. 1-43, Chinthaluru, Alamuru Mandal, East Godavari District.
14 M/s. Brandy Shop, Chinthalauru, Alamuru Mandal,
Rep. by its Proprietor, D.S. Chowdary, S/o. Veeraju, aged 35 yrs,
R/o. D.No. 3-224, Chinthaluru, Alamuru Mandal, East Godavari District.
15 M/s. Siva Kalyani Wines, Alamuru,
rep. by its Propietor, N. Krishna Rao S/o. Seethaiah, aged 38 yrs,
R/o. D.No. 3-78, Alamauru, Alamuru Mandal, East Godavari District.
16 M/s. Brandy Shop, Alamuru
Rep. by its Proprietor,, K.S.V. Prasad, S/o. Ranga Rao, aged 51 yrs, R/o.

D.No. 5-90, Alamuru, Alamuru Mandal, East Godavari District.

17 M/s. Brandy Shop, Jonnada,
Rep. by its Proprietor, V. Ramana, S/o. Simhachalama, aged 48 yrs,
R/o. D.No. 5-16, Jonnada, Alamuru Mandal, East Godavari District.
18 M/s. Siva Kalyani Wines, CHemudulanka,
Rep. by its Proprietor, Y. Janikayya, S/o. Veerraju, aged 44 yrs,
R/o. D.No. 2-94, Chemudulanka, Alamuru Mandal, East Godavari District.

19 M/s. A.B.C. Wines, Madiki,
Rep. by its Proprietor, K.V. Subba Rao S/o. Subba Rao, aged 44 yrs, R/o.

D.No. 2-72, Madiki, Alamuru Mandal, East Godavari District.
20 M/s. Sridevi Wines, Tadepalligudem,
Rep. by its Proprietor, Maddukuri Pardha Saradhi S/o. Dhana Raju, aged

about 42 yrs, R/o. C/o. B.V.R.Complex, Mahalakshmi Nagar,

Tadepalligudem, West Godavari District.
21 Sri Sai Wines, Madhavaram
Rep. by its Proprietor, Y. Tilak Kumar S/o. Satyanarayana, aged
about 25 years, R/o. B.V.R. Complex, Mahalakshmi Nagar, Tadepalligudem,

West Godavari District.
22 M/s.Vasudeva Wines, Tadepalligudem,
Rep. by its Propritor, P.V. Satyanarayana S/o. Subba Rao, aged about 38 yrs,

R/o. C/o. Vasudeva Wines, Main Road, Tadepalligudem,
West Godavari District.
23 M/s. Bhavani Wines, Tadepalligudem,
Rep. by its Propritor, G.P. Agarwal S/o. Byadayanad, aged about 44 yrs, R/o.

C/o. Bhavani Wines, K.N. Road, Tadepalligudem, West Godavari District.
24 M/s. Tirumala Wines, Penumantra,
Rep. by its Proprietor, P. Venkateswara Rao S/o. Krishna Rao, aged
about 45 yrs, R/o. B.V.R. Complex,
Mahalakshmi Nagar, Tadepalligudem, West Godavari District.
25 M/s. Sai Wines, Prathipadu,
Rep. by its proprietor, M. Venkata Narayana S/o. Tirumala Raidu, aged about

44 years, R/o. Main Road, Navabpalem, West Godavari District.
26 M/s. Balaji Wines, Tadepalligudem,
Rep. by its Proprietor, Yasa Naga Venkata Ramesh, S/o. Venkat Ratnam,

aged 40 years, R/o. C/o. Balaji Wines, K.N. Road, Tadepalligudem,
West Godavari District.
27 M/s. Raja Wines, Ravipadu,
Rep. by its Proprietor, T. Raja Babu S/o. Surya Rao, aged about 50 years,
R/o. Near O.S. Lake, Tadepalligudem, West Godavari District.
28 M/s. Sri Ganesh Wines, Fish Market Centre,
Rep. by its Proprietor, Lankalapalli Venkata Ganesh, S/o. Hanumanthar, aged

about 44 years, R/o. D.No. 20D07044, Fish Market Centre, Kothapet, Eluru,
West Godavari District.

29 M/s. Sri Rama Wlnes, Eluru,
Rep. by its Proprietor, Mandhyanapu Dhanamjayarao, S/o. Ramakrishnadass,
aged 36 years, R/o. D.No. 22V-1-41, Near Vasanthamahal, Eluru,
West Godavari District.
30 M/s. R.K. Wines, Eluru,
Rep. by its Proprietor, Kotipalli Venkata Krishna Rao, S/o. Adinarayana,

aged 40 years, R/o. D.No. 8-2-134/42, Fish Market Area, Eluru,
West Godavari District.
31 M/s. Pavani Wines, Tangellamudi,
Rep. by its Proprietor, K.N.V. Ramesh, S/o. Surya Prakasha Rao,
aged 39 years, R/o. D.No. 15-17-3, Tangellamudi, Eluru,
West Godavari District.
32 M/s. Rajesh Wines, Pedapadu,
Rep. by its Proprietor, Talluri Rama Krishna S/o. Rama Rao, aged about 45

years, R/o. D.No. 6-2B/C-746, Pedapadu Mandal, West Godavari District.
33 M/s. Anusha Wines, Chataparru,
Rep. by its Proprietor, Tuta Srinivasa Rao S/o. Nageswara Rao, aged about

34 years, R/o. D.No. C6-58, Chataparru, Eluru, West Godavari District.
34 M/s. Sai Wines, Eluru,
Rep. by its Proprietor, Lankalapalli Naga Venkata Durga Prasad,
S/o. Rama Rao, aged about 36 years,
R/o. Nowduru (V), Veeravasaram Mandal, West Godavari District.
35 M/s. Siva Wines, Eluru,
Rep. by its Proprietor, Musunuru Rama Mohana Rao, S/o. Sambasiva Rao,

aged about 40 years, R/o. D.No.22c-10-2, Near Old Bus stand, Eluru-I,
West Godavari District.
36 M/s. Chakri Liquors, N.R. Pet,
Rep. by its Proprietor, M. Venkata Rama Mohan Rao, S/o. Anga Rao,
aged about 31 years, R/o. D.No.25-15-22,
N.R. Pet, Eluru, West Godavari District.
37 M/s. Jyothi Wines, Eluru,
Rep. by its Proprietor, B.Ch, Venkateswara Rao, S/o. Lakshmaiah, aged
about 55 years, R/o. Bhavisettyvaripet, Eluru, West Godavari District.
38 M/s. K.K. Wines, Chapalachettu Centre,
Rep. by its Proprietor, K. Krishna, S/o. Manikyala rao, aged 51 years, R/o.

Kammulavari Street,. Eluru-I, West Godavari District.
39 M/s. Dhanesh Wines, Tadepalligudem,
Rep. by its Proprietor, Samarla Rama Kumar, S/o. Nagaraju, aged
about 42 years, R/o. Pallapu Street,
Tadepalligudem, West Godavari District.
40 M/s. Hanuman Wines, Kaikaram,
Rep. by its Proprietor, Bubathula Anjaneyulu, S/o. Pullaiah, aged
about 56 years, R/o. D.No. 2/142, N.H. Road, Kaikaram, Chintalapudi,
West Godavari District.
41 M/s. Devi Wines, Chintalapudi,
Rep. by its Proprietor, Kondety Manikyala Rao S/o. Nancharaiah,
aged 48 yrs, R/o. Western Street, Eluru-I, West Godavari District.
42 M/s. Siva Jyothi Wines, Raghavapuram,
Rep. by its Proprietor, Olety Vebnkateswara Rao S/o. Rattaiah, aged

about 64 years, R/o. Ratnalagunt, West Godavari District.
43 M/s. Siva Jyothi Wines, Rangapuram,
Rep. by its Proprietor, Musunuru Sambasiva Rao S/o. Rattaiah,
aged about 65 years, R/o. D.No. 4-12/A, Rangapuram,
West Godavari District.
44 M/s. Siva Jyothi Wines, Lingapalem,
Rep. by its Proprietor, R. Krishna Kumar,S/o. Satyanarayana,
aged about 42 years, R/o. Vijayarai, Lingapalem, West Godavari District.
45 M/s. Siva Jyothi Wines, Vijayarai,
Rep. by its Proprietor, Bollina Rambau S/o. Prakasa Rao, aged about 55

years, R/o. D.No. 2-304/A, Vijayarai, Siggagudem, West Godavari District.
46 M/s. Siva Jyothi Wines, Dharmajigudem,
Rep. by its Proprietor, Mokkapaty Venkateswara Rao, S/o. Satyanarayana,

aged 52 years, R/o. Kakinada, East Godavari District.
47 M/s. Jyothi Wines, Chinthalapudi,
Rep. by its Proprietor, Olety Pitchaiah S/o. Rattaiah, aged about 70 years,
R/o. Ratnalagunta, Chintalapudi, West Godavari District.

48 M/s. Sri Ganesh Wines, T. Narasapuram,
Rep. by its Proprietor, Kondety Harichandra Rao, S/o. Venkataramaiah,
aged about 56 years, R/o. T. Narasapuram, Eluru-2, West Godavari District.
49 M/s. Sri Gopal Wines, Gundugolanu,
Rep. by its Proprietor, Lankalapalli Venkateswara Rao,
S/o. Hanumantha Rao, aged about 34 years,
R/o. Eastern Street, Gundugolanu, Eluru, West Godavari District.
50 M/s. Paradise Wines, Teki,
Rep. by its Proprietor, I. Muneswara Rao S/o. Satiyya, aged about 47 years,
R/o. Taki, Kapileswarapuram Mandal, East Godavari District.
51 M/s. Paradise Wines, Pamarru,
Rep. by its Proprietor, K.V.V.R.K.Prasad S/o.Gangadharam,
aged about 36 years, R/o. Pamarru, Pamarru Mandal, East Godavari District.
52 M/s. Sridevi Wines, Venturu,
Rep. by its Proprietor, R. Venkata Rao S/o. Bhaskara Rao, aged
about 45 years, R/o. D.No. 5-76/A, Venturu, Rayavaram Mandal,
East Godavari District.
53 M/s. Sagar Wines, Gollapalem,
Rep. by its Proprietor, D. Krishna Reddy S/o. Satyanarayana Reddy,
aged about 35 years, R/o. D.No. 4-212/1, Gollapalem, Kajuluru Mandal,
East Godavari District.
54 M/s. Paradise Wines, Gollapalem,
Rep. by its proprietor, Gubbala Yesuraju S/o. Veeranna, aged about 40 years,
R/o. D.No. 28-9-89, Gollapalem, Kajuluru Mandal, East Godavari District.
55 M/s. Paradise Wines, Aryavatam,
Rep. by its Proprietor, K. Satyanarayana S/o. Subba Raju,
aged about 53 years, R/o. Aryavatam, Kajuluru Mandal,
East Godavari District.

.....RESPONDENT(S)

Counsel for the Appellant:THE ADVOCATE GENERAL

Counsel for the Respondent No.: MR.VEDULA VENKATARAMANA

The Court made the following judgment:

COMMON JUDGMENT: (Per Hon'ble Sri Justice B.Sudershan Reddy)

INTRODUCTION:

The manufacturing or of supplying by wholesale or of both or of selling by wholesale

or by retail, any liquor in the State of Andhra Pradesh is governed by Andhra Pradesh Excise Act, 1968 (for short 'the Act'), and the grant of licences for the import, export, transport and sale of Indian liquors, and foreign liquors is regulated by the Andhra Pradesh Indian Liquor and Foreign Liquor Rules, 1970 (for short 'the ILFL Rules'). The Government of Andhra Pradesh has been taking policy decisions from time to time enunciating liquor policy of the State every year. Section 17 of the Act provides that the Government may grant a licence for a fixed period subject to such conditions as they may deem fit to impose to any person at any place a lease or licence, or both for the exclusive privilege of manufacturing or of supplying by wholesale or of both; or by selling by wholesale or by retail; or by manufacturing or of supplying by wholesale or of both and of selling by retail, any liquor or other intoxicants within any such area in the State as may be specified in the said order.

2 . On 07th February, 2005, the Government of Andhra Pradesh enunciated its Excise (IML) Policy for the year 2005-2006, making certain minimal changes in the matter of grant of IL-24 (retail off licences) in the State of Andhra Pradesh. The Preamble to the policy reads:

> "The Excise (IML) policy for the year 2004-2005 will come to an end on 31st March, 2005. The Government have carefully reviewed the implementation of the policy during the year and taking into consideration the experience gained in the past, issue the following guidelines for the year 2005-06."

It *inter alia* says that the sale and consumption of liquor be made more streamlined and necessary steps in this direction will be to effectively eliminate the cartels in liquor trade, throw open the trade to more competition and thus ensure availability of good quality liquor to the consumers at affordable prices; the licences of IL-24 (retail of licences), which are functioning during the year 2004-05 in the State which will expire on 31st March, 2005 shall not be renewed for the year 2005-06. For the year 2005-06,

7,500 (Seven thousand five hundred) IL-24 retail shops will be licensed in the State. The Commissioner of Prohibition and Excise shall fix the number of licences to be granted in an area as provided under the ILFL Rules. The licensing authority shall call for applications from the general public by issuing a notification in the District Gazette. Selection of licencees from out of the applicants for grant of IL-24 licences shall be made as laid down under Rule 31 of the ILFL Rules. It is significantly stated that the present rates of licence fee charged on IL-24 (retail) shops during the year 2004-05 will be applicable for the year 2005-06. There shall be no change in the policy with regard to permit rooms except that permit rooms will not be allowed in places where the population is 25,000 and above and within a belt area of 2 Kms of such places. According to the writ petitioners, the policy of the Government is arbitrary and discriminatory as against the existing IL-24 licencees since it has no nexus with the object of streamlining the sale and consumption of liquor; eliminating the cartels in liquor trade, and making available of good quality liquor to the consumers at affordable prices. The sum and substance of the complaint is that the policy is violative of Articles 14, 19(1)(g) and 21 of the Constitution of India, and thus, liable to be declared invalid and unconstitutional.

3. Before we proceed to examine the challenge to the excise policy of the Andhra Pradesh State Government, we may first refer in short to the previous practice of granting liquor licences.

4. In February, 1995, the Legislature of Andhra Pradesh enacted Andhra Pradesh Prohibition Act, 1995, which had received the assent of the President of India. It was an Act to introduce prohibition of sale and consumption of intoxicant liquor in the State of Andhra Pradesh and matters connected therewith. The selling, buying, being in possession and consumption of liquor otherwise than in accordance with provisions of the Act, was prohibited. Further details in this regard are not required to be noticed. However, from the excise year 1998-99 onwards, the prohibition was relaxed and licences for various categories were being issued from time to time

under the provisions of the Act and the ILFL Rules. The licences were being renewed from time to time.

5. The Government of Andhra Pradesh by the impugned policy decision declared that the licences of IL-24 shall not be renewed for the year 2005-06. On the same day, the Government enunciated its Excise Policy with regard to IL-17 i.e. bars in the State of Andhra Pradesh. The policy provides for renewal of existing IL-17 licences for the year 2005-06 at the option of the licencees. In addition, the policy declares that bar licences will be granted in all places where the population is more than 25,000 and the belt area of 2 Kms of the periphery of such place. The writ petitions were filed challenging the said policy, which does not permit renewal of IL-24 licences for the year 2005-06. The writ petitions were allowed by the learned single Judge and declared the policy as arbitrary, unreasonable and violative of Article 14 of the Constitution of India. The judgment of the learned single Judge is questioned in this batch of writ appeals preferred by the Government of Andhra Pradesh and others.

SUBMISSIONS:

6. The learned Advocate General appearing on behalf of the State contended that no citizen has any fundamental right to trade in liquor, which includes grant/renewal of licences to trade in liquor and refusal to grant/renew such licence in no manner infringes any guaranteed fundamental right under Article 19(1)(g) of the Constitution of India. That there is no statutory right for licencees to seek for renewal as a matter of right. It was submitted that IL-24 and IL-17 are two distinct categories of licences. Both have been differently categorised in the ILFL Rules itself, each one of them constitute separate category and the policy of the Government not to renew the IL-17 licences, and to renew IL-24 licences is based on definite and discernible classification. The classification is not only based on rational criteria and

reasonableness but also constitutes sufficient basis for the policy decision. This Court in exercise of its jurisdiction under

Article 226 of the Constitution of India cannot judicially review the policy of the Government except on limited grounds of it being unconstitutional, or against any statutory provision. These two grounds are not available in the present case.

7. Sri E.Manohar, learned senior counsel submitted that the ground of discrimination has no basis. IL-24 licence is not similar as IL-17 licence and one cannot be compared with the other. The policy is uniformly applied to all IL-24 licencees and no discrimination is made between one and the other such licencee. The ground of irrationality and arbitrariness is unsustainable since the Government has taken the policy decision in respect of IL-24 licences in view of the past experience and in public interest as well as in the interest of the governance. The licencees had no vested right for grant of renewal of the licences and their licences were not withdrawn, they cannot challenge the policy of the Government on the ground of irrationality. The Government of Andhra Pradesh is entitled to formulate the policy depending upon its experience and exigencies and in the absence of any allegation of mala fide or favouritism, this Court in exercise of its jurisdiction under Article 226 of the Constitution of India cannot interfere with such policy decisions. The judgment of the learned single Judge is based on the judgment of the Supreme Court in SECRETARY TO GOVERNMENT, TAMIL NADU Vs. K.VINAYAKAMURTHY , which has no application. In Tamil Nadu Liquor (Retail Vending)

Rules, 1989 a right was conferred on the licencee for first and second renewals and licences were granted for the block of three years though renewable every year, and when such right was sought to be taken away on irrational ground of revenue purpose, the Court interfered, which is not the case with the policy decision taken by the Government of Andhra Pradesh.

Sarvasri E.Madan Mohan Rao, and Ravishanker Jandhyala, supplemented the submissions.

8. Sri S.Ramachander Rao, learned senior counsel appearing for some of the writ petitioners/respondents submitted that there is no rational basis, in according deferential treatment to licencees of IL-24; there is hostile discrimination between the similarly situated IL-17 licencees and IL-24 licencees; there is no real difference or distinction between both the licencees and there is no purpose or rationale in refusing to grant IL-24 licences while granting automatic renewal of IL-17 licences.

9. Sri D.Prakash Reddy, learned senior counsel submitted that the Government's policy enunciated in G.O.Ms.No.184 dated 07-02-2005 does not disclose any discernible purpose or object sought to be achieved, which is *sine qua non* for a valid policy. The policy cites non-existing grounds as the reason for non-renewal of existing IL-24 licences, which renders the
so-called policy arbitrary. The only aim and object of the policy is to displace the existing IL-24 licencees without there being any rational object sought to be achieved. That at any rate, there is no nexus between the policy not to renew the existing IL-24 licencees and the object if any sought to be achieved.

10. Sri Vedula Venkataramana, learned counsel submitted that the licences under the Act have to be issued in accordance with the Rules that may be framed under the Act and the Act itself does not seek to make any distinction between the different types of licences that may be granted. The amended as well as unamended Rule 26-A of ILFL Rules gives right to apply for renewal to the existing licencees, and the discretion of the licensing authority either to grant or reject renewal of licences is coupled with duty. The Rule relating to renewal is operative and applicable for all categories of licences and IL-24 is no exception to that Rule and an artificial distinction is now sought to be created by the policy between two categories of

licences, which is impermissible and hit by the equity clause.

11. Sri P.Sriraghuram, learned counsel submitted that the discretion conferred upon the statutory authority cannot be subjected to any policy decision. The decision either to grant or refuse renewal is required to be taken in each case and there cannot be any policy decision imposing a blanket ban on exercise of discretion by the statutory authority in the matter of grant of renewals.

12. Sarvasri E.Phani Kumar, T.Amarnath Goud and M.Govind Reddy, learned counsel supplemented the submission made by the learned senior counsel appearing on behalf of writ petitioners.

STATUTORY REGIME REGULATING TRADE AND GRANT OF LIQUOR LICENCES:

13. Let us first examine some of the statutory provisions dealing with the issue. Section 15 of the Act states that no person shall sell or buy any intoxicant except under the authority and in accordance with the terms and conditions of a licence granted in that behalf. Section 17 of the Act empowers the Government to grant for a fixed period to any person at any place a lease or licence for the exclusive privilege of selling by wholesale or by retail any liquor. Section 28 provides that every permit issued or licence granted under the Act shall be issued or granted on payment of such fees, for such period, subject to such restrictions and conditions, and shall be in such form and shall contain such particulars, as may be prescribed. Section 29 of the Act requires the licencees to execute a counterpart agreement. In exercise of powers conferred under Section 72 read with Sections 9, 11, 12, 15 and 28 of the Act, the Government made the Rules called
'ILFL Rules'. Rule 3(ee) of the Rules defines lease year as a "period of twelve months beginning from the first day of April of the year and ending with the 31st March of the following year." Rule 23(iii) categorises the licences for sale of Indian

liquor and foreign liquor; Rule 23(iii) says that the holder of a Bar licence (on licence in

Form IL-17) shall be permitted to sell Indian liquor and Foreign liquor in open bottles, glasses or pegs for consumption within the licensed premises of the hotel etc; Rule 23 (xiii) further provides that the holder of Retail licence (Off Licence) in Form IL-24 shall be permitted to sell Indian liquor and Foreign liquor in bottles….. But, he shall not allow the consumption on the licensed premises. Rule 24 specifies the period of licence and states that every licence other than the occasional licence in Form IL-22 or Special licence shall be valid for a lease year commencing from the 1st April, ending with 31st March of the succeeding year, subject to payment of annual licence fee in one lumpsum. Rule 26-A provides for filing of applications for renewal of licences to be submitted to the competent authority to renew the licences one month in advance of their expiry, prior to its amendment. Sub-rule (2) of Rule 26-A, as it stood prior to its amendment, conferred right on the licencee to carry on business till its renewal is refused, and the fact intimated provided the application for renewal of licence has been made as prescribed. Rule 30 stipulates the requirement of application for grant of licence; Rule 31 prescribes procedure to be adopted for grant of licence; Rule 65(2) of the Rules states that the licencee shall have no claim whatsoever for the continuance or renewal of licence, as the case may be, after expiry of the period for which such licence or permit was granted. Rule 26-A after its amendment with effect from 04th December, 2004 reads:

> "It shall not be mandatory for the Government to renew the licence year after year. The licensee will not have any right for renewal at the end of the licence period, when the same expires. Subject to the policy of the Government in this matter, which may be announced from time to time, Government may or may not renew the license. In case Government decides to renew, an application for the renewal of the licence shall bear a court-fee stamp of the requisite value as per the provisions of the Indian Stamp Act, 1899 and shall be submitted to the authority competent to renew the licence, together with a challan in original in support of having paid the required license fee."

13. 14. That a fair reading of the provisions of the Act and the Rules referred to hereinabove would make it clear that the licence granted under the provisions of the Act and the Rules is only for one year and no right of automatic renewal as such is conferred on the licencee. On the other hand, Rule 65(2) of ILFL Rules in clear and specific terms declares that the licencee or permit-holder or his successors or assignees shall have no claim whatsoever for the continuance or renewal of the licence, as the case may be, after the expiry of the period for which such licence was granted. The unamended Rule 26-A of the ILFL Rules prescribes the procedure for filing of applications for renewal of licence to the competent authority to renew the licence, one month in advance of its expiry together with a challan in original in support of having paid the required licence fee, and in case the application for renewal is made as prescribed and if the licence is not duly renewed and returned before the licence has expired, the licencee shall have the right to carry on business till its renewal is refused and the fact intimated.

Rule 26-A is amended and a new Rule is substituted in its place, and we shall consider the effect of the amendment so made elsewhere in this order. Suffice it to observe that Rule 65(2), which declares that the licencee shall have no claim for the continuance or renewal of the licence, is required to be read along with other Rules. The whole of ILFL rules are required to be read together as package.

15. Having noticed some of the relevant provisions of the Act and the Rules made thereunder, we shall now consider the validity of the challenge to the impugned policy decision as raised before us.

NO FUNDAMENTAL RIGHT TO TRADE IN LIQUOR:

16. That there is no fundamental right to trade in intoxicants like liquor has been conclusively held by the Supreme Court in STATE OF PUNJAB AND ANOTHER Vs. M/s DEVANS MODERN BREWERIES LIMITED where taking note of the earlier Constitution Bench decisions, the argument that a citizen has fundamental right to trade in intoxicant liquor was repelled. In HAR SHANKAR Vs. DEPUTY EXCISE AND TAXATION COMMISSIONER , the Supreme Court after considering the decisions of Constitution Benches concluded as follows:

> " These unanimous decisions of five Constitution Benches uniformly emphasised after a careful consideration of the problem involved that the State has the power to prohibit trades which are injurious to the health and welfare of the public, that elimination and exclusion from business is inherent in the nature of liquor business, that no person has an absolute right to deal in liquor and that all forms of dealings in liquor have, from their inherent nature, been treated as a class by themselves by all civilized communities. The contention that the citizen had either a natural or a fundamental right to carry on trade or business in liquor thus stood rejected."

17. In STATE OF ANDHRA PRADESH Vs. McDOWELL AND COMPANY , the Supreme Court having re-examined the entire issue including the Constitution Bench decision in KHODAY DISTILLERIES Vs. STATE OF KARNATAKA concluded that a citizen has no fundamental right to trade in intoxicant liquors and that such trade or business can be completely prohibited. It was observed:

> "41. The contention that a citizen of this country has a fundamental right to trade in intoxicating liquors refused to die
> in spite of recent Constitution Bench decision in Khoday Distilleries {(1995) 1 SCC 574}. It is raised before us again. In Khoday Distilleries, this Court reviewed the entire case law on the subject and concluded that a citizen has no fundamental right to trade or business in intoxicating liquors and that trade or business in such liquor can be completely prohibited. It held that because of its vicious and pernicious nature, dealing in intoxicating liquors is considered to be res extra commercium (outside commerce). Article 47 of the Constitution, it pointed out, requires the State to endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and all drugs which are injurious to health. For the

same reason, the Bench held the State can create a monopoly either in itself or in an agency created by it for the manufacture, possession, sale and distribution of liquor as a beverage. The holding is emphatic and unambiguous. Yet an argument is sought to be built upon certain words occurring in Clauses (e) and (f) of the summary contained in Para-60 of the decision. In these clauses, it was observed that creation of a monopoly in the State to deal in intoxicating liquors and the power to impose restrictions, limitations and even prohibition thereon can be imposed both under Clause (6) of Article 19 or even otherwise. Seizing upon these observations, Sri Ganguly argued that this decision implicitly recognises that business in liquor is a fundamental right under Article 19(1)(g). If it were not so, asked the learned counsel, reference to Article 19(6) has no meaning. We do not think that any such argument can be built upon the said observations. In Clause (e) the Bench held, a monopoly in the State or its agency can be crated 'under Article 19(6) or even otherwise'. Similarly, in Clause (f), while speaking of imposition of restrictions and limitations on this business, it held that they can be imposed 'both under Article 19(6) or otherwise'. The said words cannot be read as militating against the express propositions enunciated in Clause (b), (c), (d), (e) and (f) of the said summary. The said decision, as a matter of fact, emphatically reiterates the holding in Har Shankar (AIR 1975 SC 1121) that a citizen has no fundamental right to trade in intoxicating liquors. In this view of the matter, any argument based upon Article 19(1)(g) is out of place."

18. In American Jurisprudence, it is stated that while engaging in the liquor traffic is not inherently unlawful, nevertheless, it is a privilege and not a right, subject to Governmental control, which control has become so general that it has been said that courts may judicially notice that most free Governments have made the business of selling liquor a subject of regulation. Such control is justified…, embraces both prohibitory and regulatory measures, and includes the authority to prescribe reasonable rules and regulations and conditions upon which such business may be conducted or permitted, one illustration of which is licensing. The State's right to regulate the liquor is extensive.

19. The contentions based on Article 19(1)(g) and

Article 21 of the Constitution of India need not detain us any further as we are duty-bound to follow the law declared by the Supreme Court and reject the contention. We accordingly reject the contentions based on Article 19(1)(g) and Article 21 of the

Constitution. We hope and trust that the same question would not be raised henceforth.

PARAMETERS OF JUDICIAL REVIEW OF EXECUTIVE POLICY:

20. Before we consider the merits of the submissions based on Article 14 of the Constitution of India, we may refer in short to the parameters of judicial review and the grounds available for evaluating the policy decisions of the Executive. What is a 'Policy'? In **Corpus Juris Secundum**, the word 'Policy' is defined as settled or definite course or method adopted by a government, institution, body or individual, and as applied to a Rule of law, 'Policy' refers to its probable effect, tendency, or object, considered with respect to the social or political well-being of a State. In **Black's Law Dictionary,** the meaning of 'Policy' is explained as the general principles by which a Government is guided in its management of public affairs, or the legislature in its measures; this term, as applied to a law, ordinance, or rule of law, denotes its general purpose or tendency considered as directed to the welfare or prosperity of the State or community. It is well settled that the Court, in exercise of its power of judicial review, cannot substitute its own view and express its opinion as to whether some other policy should have been adopted. That would amount to questioning the wisdom of the Executive behind the policy decision.

21. In UGAR SUGAR WORKS LIMITED Vs. DELHI ADMINISTRATION AND OTHERS while considering the constitutional validity of a policy decision with regard to regulating the trade in liquor and laying down various regulatory measures by the Delhi Administration, the Supreme Court observed:

> "18. The challenge, thus, in effect, is to the executive policy regulating trade in liquor in Delhi. It is well settled that the courts, in exercise of their power of judicial review, do not ordinarily interfere with the policy decisions of the executive unless the policy can be faulted on grounds of mala fide, unreasonableness, arbitrariness or unfairness etc. Indeed, arbitrariness, irrationality, perversity and mala fide will render the policy unconstitutional. However, if the policy cannot be faulted on any of these

> grounds, the mere fact that it would hurt business interests of a party, does not justify invalidating the policy. In tax and economic regulation cases, there are good reasons for judicial restraint, if not judicial deference, to judgment of the executive. The court are not expected to express their opinion as to whether at a particular point of time or in a particular situation any such policy should have been adopted or not. It is best left to the discretion of the State."

On a critical assessment of the policy, the Supreme Court found that the impugned notification therein furthered the object of providing liquor of good quality having larger acceptability and the policy was made in the interests of health, welfare and morals to benefit all the citizens of Delhi and not to benefit the big industrial houses as alleged

22. In PREMIUM GRANITES Vs. STATE OF TAMIL NADU

the Supreme Court observed that "*it is not the domain of the Court to embark upon unchartered ocean of public policy in an exercise to consider as to whether a particular public policy is wise or a better public policy can be evolved. Such exercise must be left to the discretion of the executive and legislative authorities as the case may be.*"

23. Whether the Excise Policy is immune from challenge based on Article 14 of the Constitution of India ? The Excise Policy formulated by Executive as such does not enjoy any particular immunity from scrutiny by the Court. If the Policy framed is absolutely capricious and not being informed by any reason whatsoever, thereby offending Article 14 of the Constitution of India, the Court has the power and duty to strike down the policy. The broad power of the State to regulate the liquor traffic does not justify the disregard of constitutional guarantee or authorise the imposition of conditions requiring the relinquishment of constitutional right guaranteed under Article 14 of the Constitution of India. It is no doubt true that the State's policy to regulate the liquor trade, although not absolute, allows the widest discretion and is subject to minimal demands of equal protection requirement. Liquor licencees are

not an inherently suspect classification, and the Government can impose regulations on liquor traffic that are more stringent than would be permitted in other businesses. However, there is no warrant for unjust discrimination as between individuals engaged in the same business, especially where the right to sell liquor is recognised by Statute and Rules framed thereunder. Merely characterising liquor licence a privilege does not free the State and its instrumentalities and its agencies from right to equality requirement in licensing and, although it is a business, which is subject to a high degree of supervision and regulation in the public interest, considerations of fundamental fairness and justice comporting with equality clause must be evident. This aspect of the matter is not *res integra* as it is squarely covered by an authoritative pronouncement of the Supreme Court in STATE OF MADHYA PRADESH Vs. NANDLAL JAISWAL . The Supreme Court, while reiterating that there is no fundamental right to carry on trade or business in liquor and no one can claim as against the State the right to carry on trade or business in liquor and State cannot be compelled to part with its exclusive right or privilege of manufacturing and selling liquor, further observed:

> "… But when the State decides to grant such right or privilege to others the State cannot escape the rigour of Article 14. It cannot act arbitrarily or at its sweet will. It must comply with the equality clause while granting the exclusive right or privilege of manufacturing or selling liquor. It is therefore, not possible to uphold the contention of the State Government and respondents No.5-11 that Article 14 can have no application in a case where the licence to manufacture or sell liquor is being granted by the State Government. The State cannot ride roughshod over the requirement of that Article.
>
> But, while considering the applicability of Article 14 in such a case, we must bear in mind that, having regard to the nature of the trade or business, the Court would be slow to interfere with the policy laid down by the State Government for grant of licences for manufacture and sale of liquor. The Court would, in view of the inherently pernicious nature of the commodity allow a large measure of latitude to the State Government in determining its policy of regulating, manufacture and trade in liquor. Moreover, the grant of licences for manufacture and sale of liquor would essentially be a matter of economic policy where the court would hesitate to intervene and strike down what the State Government had done, unless it appears to be plainly arbitrary, irrational or mala fide…… The Court cannot strike down a policy decision taken by the State Government merely because it feels that

> another policy decision would have been fairer or wiser or more scientific or logical. The Court can interfere only if the policy decision is patently arbitrary, discriminatory or mala fide."

24. It is against this background of the settled legal position and keeping the same in mind that we must now proceed to deal with the contentions based on Article 14 of the Constitution of India. But, before we proceed to critically examine the contentions based on the touchstone of Article 14, we are required to deal with the submissions made on behalf of the State, and others supporting the State about the nature of right to renewal. Learned Advocate General and Sri E.Manohar, learned senior counsel, submitted that there is no statutory right of licencee to seek renewal, as a matter of right, under the provisions of the Act and Rules framed thereunder and in the absence of any such right, no further question as to the applicability of Article 14 arises for consideration.

Reliance was placed on the decision in AMAR CHANDRA Vs. EXCISE COLLECTOR, TRIPURA a licence was granted to establish a warehouse for storage and supply of country spirit to excise vendors for the territory of Tripura for five years commencing from 01st April, 1968 to 31st March, 1973. The Committee of Estimates in their report about the working of Excise Department in general and the procedure adopted in giving contract to the licencee for a period of five years in particular, made some adverse observations criticising the means of selection because this method left loopholes for corruption. As a result Rule 164-A was inserted in Tripura Excise Rules, 1962, according to which, fees for licence for wholesale vending of country spirit was required to be fixed by tender-cum-auction. The Collector of Excise in exercise of power under Section 43 of the Bengal Excise Act, 1909 issued notice expressing intention to withdraw the licence and order that the said licence be withdrawn with effect from 1st September, 1970. The

Constitutional validity of

Section 43 of the Act was challenged, which enabled the authority who granted the licence under the Act to withdraw for any cause by remitting the sum equal to the sum payable in respect thereof for 15 days. The Supreme Court observed that in Section 43 of the Act, there is no express mention of the precise grounds on which the licence can be withdrawn, but in view of the nature of the trade or business for which grant of licence is provided, the cause contemplated by Section 43 must be such as may have reasonable nexus with the object of regulating this trade or business in the general interest of the public. The act of withdrawing the licence was found to be in terms of the policy decision taken by the Government. That the exclusive privilege of supply of country liquor by wholesale should not be allowed for one individual by selection, but at least in favour of three persons and also by tender-cum-auction. We fail to appreciate as to how the said judgment renders any support to the points urged by the appellants.

25. It was submitted that the Government is fully competent to change its policy and such change in the policy does not give rise to legitimate expectation and the doctrine of promissory estoppel having no application; renewal is not vested right and it is grant afresh.

26. In MOHD. FIDA KARIM Vs. STATE OF BIHAR , the Government's decision to adopt a policy to augment its revenue and to avoid monopolistic tendency was upheld. The controversy in that case relates to mode and settlement of right to vend the Indian made foreign liquor under the provisions of Bihar and Orissa Excise Act, 1915 and the Rules made thereunder. In the year 1984, the State Government decided to make settlement of country liquor shops by public auction. This was done on annual basis for the period commencing from 1st April to 31st March of the next following year. The practice was in vogue upto 1989-90. During the currency of the

licensing period 1989-90, the State Government made a policy to make settlement of liquor shops for five years by renewing the existing licence subject to fulfilment of certain conditions like satisfactory record of performance and enhancement of licence fee at the rate of 10% every year and also enhancement of minimum guaranteed quota at the rate of

5% every year. Pursuant to the aforesaid policy, the licencee having agreed to new terms and conditions entered into necessary agreements and deposited six months licence fee for the first year of settlement. According to the licencees, a concluded contract came into effect on 7th March, 1990 itself. Some of the persons not satisfied with the Government's policy challenged the same by filing writ petition in the High Court. The High Court passed the interim order on 09th, March, 1990, 23rd March, 1990 and

13th April, 1990 staying the new policy of the Government and in its place gave a direction to grant licence on yearly basis through public auction. It was also directed that the order will not stand in the way of Government reviewing the policy decision. The Government revised its policy on 16th August, 1990 that the settlement of liquor shops should be made by auction-cum-tender

method, according to which the persons interested were required to submit sealed tenders and also to participate in the public auction. This revised new policy of auction-cum-tender for the year 1991-92 was challenged mainly on the ground that there is no provision in the Excise Act or the Rules to review or revoke the grant of licence or to curtail or reduce the period of licence except as provided under Sections 42 and 43 of the Act. The licence already granted for a period of five years from 1990 to 1995 cannot be made ineffective by the so-called new policy of auction-cum-tender. It was also urged in the facts and circumstances that the excise policy is arbitrary, irrational and unreasonable. The Supreme Court repelling the contentions held that the notification on the basis of which the licences were granted

for the period of five years, clearly mentioned that the grant of licence was on annual basis and such renewal after every year was subject to conditions mentioned therein and subject to change in the policy. The Government was fully competent to change its policy under the terms of the agreement itself. The Supreme Court found that the Government has taken the policy decision to augment its revenue and to avoid monopolistic tendency. The writ petitions were accordingly dismissed.

27. We fail to appreciate as to how the said judgment renders assistance to decide the issue that arises for consideration in the present case. It was a case where the whole policy relating to the settlement of liquor shops was changed by adopting auction-cum-tender method from that of settlement of liquor shops by public auction. It was a case of complete change of policy. The licence granted itself provided that the grant of licence was on annual basis and such renewal every year shall be subject to conditions mentioned therein and also subject to any change in the excise policy.

28. In the instant case, the system of calling for applications for grant of IL-24 licences continues to be the same. Selection of licencees from out of the applicants for grant of IL-24 licences continues to be the same as laid down under Rule 31 of the ILFL Rules i.e. by drawal of lots. The present rate of licence fee applicable for shops during the year 2004-05 is applicable to the year 2005-06 also. However, for the year 2005-06, the Government has decided to grant IL-24 retail licence for a total number of 7,500 shops instead of existing 6,800 shops.

29. In MADRAS CITY WINE MERCHANTS ASSOCIATION Vs. STATE OF TAMIL NADU the Supreme Court, having noted that it was by a Rule made in exercise of the powers conferred by Sections 17-C, 17-D, 21 and 54 of Tamil Nadu Prohibition Act, 1937 the licences under Bar Rules came to be granted, held that the repeal of those Rules by the exercise of the same power would not give rise to any legitimate expectation, which arises only in the field of administrative decisions, and not

applicable in case of legislation. In the case on hand, none of the counsel appearing for the writ petitioners raised any plea of promissory estoppel or doctrine of legitimate expectation.

30. The learned Advocate General as well as

Sri E.Manohar, learned senior counsel strenuously contended that renewal is not vested right, and that it is a grant afresh. The Rules in force at the time of grant of renewal of licence alone are applicable. The amended Rule 26-A of the ILFL Rules takes away the right of renewal, if any, that was available and in the absence of any such right for renewal of licence, no relief whatsoever could be granted to writ petitioners. Reliance was placed on the decisions of the Supreme Court in STATE OF TAMIL NADU Vs. M/s HINDSTONE and P.T.R.EXPORTS (MADRAS) PVT. LIMITED Vs. UNION OF INDIA . In HINDSTONE case, the vires of Rule 8-C of Tamil Nadu Minor Mineral Concession Rules, 1959, which deals with grant of lease of quarries in respect of black granite to Government Corporation was challenged by the persons holding lease for quarrying black granite belonging to State Government and whose leases were about to expire and who applied to Government of Tamil Nadu for renewal of leases. Rule 9 of the Rules provide for renewal of leases for the period not exceeding the period for which the lease was granted in each case subject to certain conditions, which need not be noticed. The newly incorporated Rule 8-C declared that notwithstanding anything contrary contained in the Rules and on and from 07th December, 1977, no quarrying lease for black granite will be granted to private persons with a view to take over quarrying of black granite by the Government and entrust to the State-owned Corporation. It was in that context the Supreme Court observed that "*application for renewal of lease is in essence an application for the grant of a lease for a fresh period. We are, therefore, of the view that Rule 8-C is attracted in considering applications for renewal of leases also.*" The Government of Tamil Nadu as a measure of policy altogether dispensed with granting of quarrying lease for black granites in favour of private individuals with a

view to entrust the same to the State-owned Corporation. The grant of lease in favour of private individuals itself was altogether prohibited and the question of grant of renewal of lease as such did not arise. It was a clear case of prohibition of fresh grants as well as renewals.

31. In the case on hand, the excise policy does not dispense with the grant of IL-24 licences to private individuals altogether. It is not as if the State itself has taken over the trade and supply of liquor to the consumers. The system of granting liquor licences continues to be the same. Even the amended
Rule 26-A of the ILFL Rules does not completely prohibit the grant of renewal. It merely says that it is not mandatory for the Government to renew the licence and gave discretion to the Government to grant or not to grant renewal of licence. The observations of the Supreme Court in HINDSTONE case that an application for renewal of lease is in essence an application for the grant of lease for a fresh period, is to be understood in that context. In the case on hand, the application for the grant of lease for fresh period continues to be the same and it is not as if the impugned policy and Rules prohibit grant of fresh licences.

32. In P.T.R. EXPORTS case upon which reliance was placed, is again a case where the Supreme Court held that "*a prior policy decision would not bind the Government for all times to come. When the Government are satisfied that change in the policy was necessary in the public interest, it would be entitled to revise the policy and lay down new policy.*" The doctrine of legitimate expectation would not automatically be applied whenever there is change in the policy of the Government.

33. Is there any major shift or change in the new impugned policy promulgated by the Government in the matter of granting of IL-24 licences ? The system of licensing authorities calling upon applications by notification in the District Gazette as provided in Rule-3 of Andhra Pradesh Excise (Lease of Right to Sell Indian Liquor and Foreign Liquor in Retail) Rules, 1993, for grant of IL-24 licences, continues to be

in operation even under the revised excise policy. The same system of selection of licencees from out of the applicants for grant of IL-24 licence required to be made as laid down in Rule 31 of the ILFL Rules is followed i.e. by drawal of lots. The same system of granting privilege through licence continues. The rates of licence fee for IL-24 (retail shops) during the year 2004-05 are made applicable to 2005-06. The population criteria also continues to be based on 2001 census. The Commissioner of Prohibition and Excise has the power to fix the number of licences to be granted in an area as provided under Rule 28 of the ILFL Rules. It is not as if under the new policy the Government has decided not to grant any IL-24 (retail of licences) to any of the applicants. That in all respects, the same system of grant of IL-24 (retail of licences) is continued even under the new policy, except the decision not to renew the IL-24 licences, which are functioning during the year 2004-2005 in the State, which will expire on 31st March, 2005.

34. On a consideration of the relevant provisions of the Act and the ILFL Rules, which we have noted supra, we have no doubt whatsoever in our mind that IL-24 licencees had the right to apply for renewal of licences. Even the amended Rule of 26-A of the ILFL Rules does not take away the right of the licencee to apply for the renewal of the licence when the same expires. The expression employed in Rule 26-A of the ILFL Rules after its amendment

"*the Government may or may not renew the licence*" makes it clear that the Government is invested with the power to renew the licences. Of course, the power to renew or not to renew the licence is subject to policy of the Government, which may be announced from time to time. The said Rule further provides that in case the Government decides to renew, an application for the renewal of the licence shall be submitted to the competent authority to renew the licence. The Rule does not make any distinction between IL-17, IL-17A or IL-17B or IL-24 licences for the purpose of

renewal. The power to renew each and every category of licence is traceable to Rule 26-A of ILFL Rules.

35. The discretion conferred upon the statutory authority either to renew or not to renew the licence is strangely made subject to the policy decision of the Government. By the impugned policy decision, the Government imposed fetters upon its own power as well as upon the licensing authority not to renew IL-24 licence for the year 2005-06. The discretion to be exercised by the statutory authority is coupled with duty is taken away by the impugned policy. We find no merit in the submission that the licencees have no semblance of right under the provisions of the Act and the ILFL rules even to submit applications seeking renewal of licences.

CHALLENGE BASED ON ARTICLE 14 OF THE CONSTITUTION:

36. The short question that arises for consideration is whether there is any nexus between the policy decision insofar it directs that IL-24 licences shall not be renewed and the object sought to be achieved, namely, streamlining of sale and consumption of liquor; elimination of cartels in the liquor trade; ensure availability of good quality liquor at affordable prices, and is there any discernible object or purpose sought to be achieved by the new policy? The object sought to be achieved by the new policy is better stated in its own words:

> "The sale and consumption of liquor be made more streamlined. The necessary steps in this direction will be to effectively eliminate the cartels in liquor trade, throw open the trade to more competition and thus ensure availability of good quality liquor to the consumer at affordable prices."

37. In this context, it is just and necessary to notice the averments in somewhat detail made in the counter-affidavit explaining the reasons as to why the impugned policy decision was taken by the Government. It is stated that many of these licences

were in existence from 1998-99 and they have been renewed at the option of the licencees upto 2004-05 without any break. "*This led to formation of cartels by the licence holders. Often the action of the cartels will be detrimental to the interests of the Government and the public. Their actions also result in loss of revenue. The above situation may be better appreciated when the machinations of these people over the years be viewed against the steps taken by the Government to restore order. Whenever the Government wished to establish additional shops with an intention to check the cartels by inducting fresh licences, the traders re-grouped themselves and strived hard to nullify Government's actions by forming into cartels and reducing the number of shops which is clear from the following table. It is relevant to submit that for the period 2004-05, the validity of the existing licences was extended in three spells, subject to payment of licence fee. At the time of every extension, there was reduction in the number of shops due to formation of cartels resulting in loss to the public exchequer and detrimental to the interest of consumers:*

Year	No. of shops at the end of the previous year	No.of shops established additionally	No. of shops whch did not renew due to cartel	No.existed during the year	No. of shops closed for other reasons
1998-1999	3211	3709	68	6852	
1999-2000	6852		742	6017	93
2000-2001	6017	731	241	6507	
2001-2002	6507	615	59	7056	7
2002-2003	7056	802	231	7609	18
2003-2004	7609		481	7118	10
2004-2005	7118		209	6859	50
(Break up)End of March,04July,04Sept.04	7118 7070 6917		26125 58	7092694568	2228

"

It is further stated that in spite of a lapse of seven years, the number of shops could

not be stabilised according to requirement year after year. "*In fact the number of shops that are existing as of now is almost equal to the shops that existed during 1998-99*

in spite of growth in population and growth due to other natural factors. It is also submitted that in spite of Government taking necessary steps to substitute closed shops, the cartels succeeded in stalling the same to serve their own interest."

38. What is 'Cartel' ? According to Black's Law Dictionary 'cartel' is a combination of producers of any product joined together to control its production, sale, and price, so as to obtain a monopoly and restrict competition in any particular industry or commodity.

39. In UNION OF INDIA Vs. HINDUSTAN DEVELOPMENT CORPORATION , the Supreme Court after ascertaining the meaning of the word '***Cartel***' from various dictionaries and American Jurisprudence held:

> "14. First we shall consider the submissions regarding the formation of cartel by these three big manufacturers. The word 'Cartel' has a particular meaning with reference to monopolistic control of the market. In Collins English Dictionary, the meaning of the word '*Cartel*' is given as under:
>
> 'Cartel – 1: Also called: trust, a collusive international association of independent enterprises formed to monopolise production and distribution of a product or service, control prices etc…
>
> In Webster Comprehensive Dictionary, International Edition, the meaning of the word 'Cartel' is given thus:
>
> 'cartel……..xx……3. An international combination of independent enterprises in the same branch of production, aiming at a monopolistic control of the market by means of weakening or eliminating competition……xx……..'
>
> In Chambers' English Dictionary the word 'Cartel' is defined thus:
>
> 'Cartel – A combination of firms for certain purposes especially to keep up prices and kill competition….xx…..'

xxxxx

> In American Jurisprudence 2d Vol.54 page 677 it is mentioned thus:

> ‘A cartel is an association by agreement of companies or sections of companies having common interests, designed to prevent extreme or unfair competition and to allocate markets, and perhaps also to exchange scientific or technical knowledge or patent rights and to standardize products, with competition regulated but not eliminated by substituting competition in quality, efficiency and service for price-cutting. An international cartel arrangement providing for a world-wide division of a market has been held a per se violation of 15 USC S.1. An American Corporation violates the Sherman Act by entering into agreements with English and French companies to (1) allocate world trade territories among themselves; (2) fix prices on products of one sold in the territory of the others; (3) co-operate to protect each other’s markets and eliminate outside competition; and (4) participate in cartels to restrict imports to and exports from the United States.’

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> The cartel therefore is an association of producers who by agreement among themselves attempt to control production, sale and prices of the product to obtain a monopoly in any particular industry or commodity. Analysing the object of formation of a cartel in other words, it amounts to an unfair trade practice which is not in the public interest. The intention to acquire monopoly power can be spelt out from formation of such a cartel by some of the producers. However, the determination whether such agreement unreasonably restrains the trade depends on the nature of the agreement and on the surrounding circumstances that give rise to an inference that the parties intended to restrain the trade and monopolise the same.”

40. The maximum recommended retail price is fixed and notified on each of the liquor bottles by the Andhra Pradesh State Beverages Corporation, which has the monopoly of supply of liquor for sale in the State of Andhra Pradesh. All the IL-24 licencees are required to receive the supply only from the said Corporation and sell the liquor at maximum retail price. Privilege fee payable by the licencees is fixed by the Government itself with respect to population of each area. There is no possibility whatsoever for the licence-holder to peg down the privilege fee. The licencees do not have control over production, sale and price of the liquor. Thus, the question of obtaining a monopoly as such does not arise. Monopoly is the power to control prices or exclude competition from any part of the trade or commerce among the

producers; price fixation is one of the essential factors. In the absence of any possibility and capacity to control production, sale and price of the liquor by the licencees, it is not possible to accept reasons stated in the policy about the formation of cartels. The reason that the excise policy intends to effectively eliminate cartels in liquor trade cannot be accepted. In such view of the matter, the reason assigned that the impugned excise policy would effectively eliminate the cartels in liquor trade, in our considered opinion, is a non-existent one. The ground that the excise policy intends to effectively eliminate cartels in liquor trade is a non-existent one.

41. The next question is what is the nexus between the non-renewal of licences of the existing licence-holders and making available of good quality liquor. The liquor to all the shops is supplied by the State itself through the Corporation owned by it. The licencees are in no manner involved in manufacture of any liquor. Licencees have no say or any role to play in the manufacturing process and maintenance of quality and standard of liquor, and there cannot be any improvement in the quality of liquor by merely changing the existing licence-holders. Whether the existing licencees or the new incumbents to whom the Government intends to grant licence, the liquor is required to be supplied to them by the Corporation fully owned and controlled by the Government. Yet another non-existent ground is pressed into service to support the impugned policy decision.

42. Likewise, the licence-holders have no say and control over the price fixation of the liquor. The prices of the liquor depend upon the category, namely, ordinary, medium and premium, and the price at which each category of liquor is to be supplied is pre-determined by the State and its agencies. Price of the liquor does not depend upon the *inter se* competition among the retail licence-holders. Each one of the licence-holders is required to sell the liquor at pre-determined prices. The Government's intention to ensure availability of good quality liquor to the consumer at affordable prices has no rational connection with the decision not to renew the

licences of the existing licencees.

43. We are fully conscious that this Court in exercise of its jurisdiction under Article 226 of the Constitution of India does not sit in appeal over the policy decision of the Government. This Court cannot judicially review the wisdom behind the policy decision, nor can it substitute its view for that of the Government. But, it is needless to re-state that Article 14 of the Constitution of India would also apply to matters of policy or any action of the Government, and when the policy is arbitrary and unreasonable, it would be unconstitutional.

44. In UNION OF INDIA Vs. INTERNATIONAL TRADING COMPANY , the Supreme Court observed:

> "15. While the discretion to change the policy in exercise of the executive power, when not trammeled by any statute or rule is wide enough, what is imperative and implicit in terms of Article 14 is that a change in policy must be made fairly and should not give the impression that it was so done arbitrarily or by any ulterior criteria. The wide sweep of Article 14 and the requirement of every State action qualifying for its validity on this touchstone irrespective of the field of activity of the State is an accepted tenet. The basic requirement of Article 14 is fairness in action by the State, and non-arbitrariness in essence and substance is the heartbeat of fair play. Actions are amendable, in the panorama of judicial review only to the extent that the State must act validly for a discernible reason, not whimsically for any ulterior purpose. The meaning and true import and concept of arbitrariness is more easily visualized than precisely defined. A question whether the impugned action is arbitrary or not is to be ultimately answered on the facts and circumstances of a given case. A basic and obvious test to apply in such cases is to see whether there is any discernible principle emerging from the impugned action and if so, does it really satisfy the test of reasonableness."

45. In our considered opinion, even the broad powers of the State over the liquor traffic does not justify the disregard of constitutional guarantees or authorise the imposition of conditions requiring the relinquishment of constitutional rights. The licensing procedure cannot be immune from considerations of fundamental fairness enshrined in Article 14. If the policy made with respect to liquor traffic is not to protect the community or to promote the general well being, instead under the guise of

regulation, there is discrimination and found unreasonable without any discernible purpose, the constitutional courts cannot abdicate their duty to scrutinise the policy on the touchstone of Article 14 and decide whether the same can be held to be arbitrary and unreasonable on the basis of material available on record.

46. The constitutional validity of more or less similar policy decision taken by the State of Tamil Nadu came up for consideration before the Supreme Court in SECRETARY TO GOVERNMENT, TAMIL NADU Vs. K.VINAYAKAMURTHY (1 supra). We shall notice the facts of that case in somewhat detail since the decision rendered by the Supreme Court has direct bearing on the question that falls for consideration in this batch of cases. The Government of Tamil Nadu declared its policy in June, 2001 to be adopted for Indian made foreign liquor retail vending shops for the block year 2001-04. For the aforesaid block year, it was decided that the retail vending shops for the entire State should be fixed at 6,000 and the privilege fee should be worked out on notified area basis, taking average privilege fee of the last three years and providing for some suitable increase. In accordance with the aforesaid policy decision, amendments to Tamil Nadu Liquor (Retail Vending) Rules, 1989 were made, which were issued under G.O.Ms.No.115 dated 22-06-2001. Under the amended Rules, when the number of eligible applications does not exceed the number of shops notified for an area, then all applicants shall be selected for the grant of privilege. But, when the number of applications in respect of shops in a notified area is more than the number of shops in that area, the selection of applicant for grant of privilege shall be decided by drawal of lots by the licensing authority.

47. In accordance with the said policy and the provisions of the Act and the rules, the exclusive privilege in respect of different retail vending shops of Indian made foreign liquor was settled, and licences were also issued by the licensing authority for

carrying on business for the excise year 2001-2002. Even though the policy was for the block period 2001-2004 and an existing licencee could apply for renewal of licence for the excise year

2002-2003, the Government changed the policy by issuance of three G.Os on 21-07-2002. The aforesaid three G.Os indicate that the Government felt that there is need for increasing the number of shops in the unserved area that are not notified and also in the existing notified area where there is further potential and demand identified by the Collectors. It was also indicated that the privilege amount in respect of the shops located in areas adjoining the Corporations and Municipalities could be enhanced and as such, there is a need to re-categorise the shops and re-fix the privilege amount. The Commissioner of Prohibition and Excise suggested that along with the increase in the number of notified shops and re-fixation of the privilege amount for the shops located in peripheral areas of Corporations/Municipalities, as well as the revision of privilege amount for augmenting the excise revenue, the Government should consider whether instead of renewing the licences of the existing licencees, all the shops may be allotted afresh. In other words, he suggested to have a fresh draw of lots in accordance with aforesaid recommendation. The State Government passed necessary orders, directing renewal of licences prescribed in Rule 14 of the Tamil Nadu Liquor (Retail Vending) Rules, 1989 be repealed and all the 7,000 shops including

re-categorised shops shall be disposed of as per the procedure.

48. The existing holders of the privileges, who had obtained licences for the excise year 2001-2002 approached the High Court of Madras challenging the validity of Government orders. The Division Bench of the High Court sustained the Governmental Orders insofar as they relate to fiscal policy of the Government and the provisions made therein for augmenting the excise revenue. But, insofar as the provision dealing with the abolition of the renewal of the existing licence holders and

to follow the procedure in respect of the shops by a fresh lot, the Court came to the conclusion that the aforesaid provision has absolutely no nexus with the object of augmentation of excise revenue and it was meant only to disable the existing licencees from opting for the renewal notwithstanding that the excise policy as enunciated in June, 2001 was for the block period 2001-2004. The revised excise policy was accordingly held to be wholly unreasonable and arbitrary, having no nexus with the object of augmentation of excise revenue for which purpose the new policy was introduced.

49. On re-consideration of entire issue, the Supreme Court held:

> "…the High Court rightly came to the conclusion that the aforesaid decision was nothing but an arbitrary and whimsical one taken by the State government, only to replace the existing licensees by a fresh set of persons by a fresh drawal of lots. Even though the licencees under the earlier policy may not claim an absolute right of renewal, but it cannot be denied that G.O.Ms.No.115 read with the excise policy evolved for the block period 2001-2004 and the relevant provisions of the Act and Rules contemplate a case of renewal and this is also apparent from the recommendations of the Excise Commissioner himself on the basis of which the State came forward with the revised policy and a new set of Rules by enacting G.O.Ms.No.128, 129 and 130. We have, therefore, no hesitating in affirming the conclusion of the Division Bench of the Madras High Court that the portions of G.O.Ms. dealing with the non-renewal of the privileges granted to the existing licencees subject to their fulfilling the other conditions of the provisions of the Act and the Rules are arbitrary.

50. In our considered opinion, the ratio of the judgment in VINAYAKAMURTHY case (1 supra) is squarely applicable to the case on hand. In our considered opinion, the defence that was available to Tamil Nadu Government as to augmentation of revenue was a formidable one, which is not available in the case on hand. That unlike the policy decision of Tamil Nadu, there is no intention of any augmentation of excise revenue in the impugned policy decision; there is no proposal to enhance the privilege amount in respect of the shops located in the area adjoining the Municipalities and Corporations and there is also no attempt to

re-categorise the shops and re-fix the privilege amount, and therefore, whatever justification that was available to the Government of Tamil Nadu, is not available to the Government of Andhra Pradesh in the present case. We have already noted that there is no shift in the procedure for granting the licences; no increase in privilege fee, and no re-categorisation of the shops etc. Only one similarity between both the policies is with regard to increase in the number of shops. That instead of inviting applications in respect of newly proposed shops, an arbitrary decision has been taken not to renew the licences of the existing licencees. Learned Advocate General, however, submitted that the decision of the Supreme Court in K.VINAYAKAMURTHY case has no application since the Rules framed by Government of Tamil Nadu conferred a right on the licencees for first and second renewals and licences were granted for a block period of three years, though renewable every year, which right was sought to be taken away on irrational ground of increase in revenue even though there was no change in the licence fee, and such is not the case in respect of Government of Andhra Pradesh. We find no merit in the submission. The facts which we have noticed in detail in K.VINAYAGAMURTHY case reveal that the existing holders of the privilege, who had obtained licences for carrying on business for the excise year 2001-2002 filed writ petitions and obtained directions directing *ad hoc* licence for a further period of three months. The licences were not granted for a block period of three years, but granted for only one excise year 2001-2002. That during the block period 2001-2004, an existing licencee could apply for renewal of licence for the excise year 2002-03, and it is at that stage, the Government of Tamil Nadu revised its policy.

Rule 14 of Tamil Nadu Liquor (Retail Vending) Rules, 1989, provides for renewal of the licence for the second year as well as third year and prescribes the procedure thereof. Sub-rule (3) of Rule 14 confers discretion upon the licensing authority either to renew, or refuse renewal by an order recording reasons for refusal. It was also not a case of automatic renewal. That pursuant to the policy decision, the provision of

renewal of licence prescribed in Rule 14 of Tamil Nadu Liquor (Retail Vending) Rules, 1989 was directed to be repealed. When the matter came up for consideration, there was no Rule providing for renewal of the licence. It is in that context, the Supreme Court made the following observations:

> "Even though the licensees under the earlier policy may not claim an absolute right of renewal but it cannot be denied that G.O.Ms.No.115 read with the excise policy evolved for the block period 2001-04 and the relevant provisions of the Act and rules contemplate a case of renewal and this is also apparent from the recommendations of the Excise Commissioner himself on the basis of which the State Government came forward with the revised policy and a new set of rules…."

51. Neither the High Court of Madras nor the Supreme Court granted relief to the existing licencees on the ground that they had any vested or statutory right to renewal. But, the relief was granted on the ground that there was no nexus between the object of augmentation of excise revenue and the policy not to renew licences, and it was only meant to disable the existing licencees from opting for renewal of licence. The Supreme Court held the revised excise policy to be wholly unreasonable and arbitrary, having no nexus at all with the object of augmenting the excise revenue for which purpose the new policy was introduced.

52. We have critically examined the impugned policy in the preceding paragraphs and found that there is no nexus between the decision not to renew the existing IL-24 licences with the object sought to be achieved, namely, streamlining the sale and consumption of liquor, steps to effectively eliminate the cartels in liquor trade; throw open the trade to more competition and ensure availability of good quality of liquor to the consumers at affordable prices. There is no nexus between the decision not to renew IL-24 (retail of licences), which are now functioning for the year 2004-2005 in the State, and the above object sought to be achieved. Each of the grounds has no rational connection with the decision not to renew the existing IL-24 licence. We accordingly declare the impugned policy is discriminatory in its nature apart from being irrational. In the result, we find it difficult to sustain G.O.Ms.No.184

dated 07-02-2005 insofar as it direct that IL-24 licences shall not be renewed. However, the excise policy does not suffer from any infirmity in all other respects.

53. In view of our conclusion that the impugned policy decision not to renew IL-24 licences has no rational basis and no nexus with the object sought to be achieved, namely streamlining of sale and consumption of liquor, to effectively eliminate the cartels in liquor trade and to ensure availability of good quality liquor at affordable prices, it is not necessary to go into the contentions based on discrimination between IL-24 and IL-17 licencees.

54. In some of the writ petitions, the validity of the provisions in G.O.Ms.No.206 Revenue (Ex.II) Department dated

10-02-2005 were challenged and the learned single Judge rightly did not examine the validity of all the provisions so challenged as it was totally unnecessary to do so. However, the learned single Judge having interpreted Rule 70 of the ILFL Rules, which provides and makes the decision of the Commissioner to be final in case of any doubt or dispute or interpretation of any of the Rules, observed that the executive authority can never have final word in the matter of interpretation of provisions of the Act since the said function is assigned to Courts. In our considered opinion, Rule 70 of the ILFL Rules as such does not suffer from any infirmity or vice since interpretation of any of the Rules and the decision of the Commissioner is made final only sofar as the department is concerned. The interpretation and the decision is not binding upon the courts as such. That such a power is obviously conferred upon the Commissioner for Prohibition and Excise, who is the Chief Controlling authority in all the matters connected with the administration of the Act.

The interpretation of the Rules by the Commissioner and the decision taken by him is made final sofar as the department is concerned. The portion of the order dealing with Rule 70 of the ILFL Rules shall accordingly stand modified.

55. This order of ours shall not preclude the Government to formulate its excise policy afresh in whatever manner it may consider appropriate in accordance with law.

56. We find no merit in the writ appeals.

57. The writ appeals are accordingly dismissed without any order as to costs.

_____

B.SUDERSHAN REDDY, J

_____

C.V.RAMULU, J

22nd March, 2004.

Note: 1) LR copy be marked.

2) Furnish copy by today.

(b/o)

Bsc

DY. REGISTRAR

To

One Fair copy to Hon'ble Sri Justice B.Sudershan Reddy (for His Lordship's perusal)

One Fair copy to the Hon'ble Sri Justice C.V.Ramulu (for His Lordship's kind perusal.

1 The Special Chief Secretary to Government., Govt. of A.P.,
Revenue (Excise.II) Department, Secretariat,

Hyderabad.
2 The Commissioner, Proh. & Excise, Hyderabad.
3 The Prohibition & Excise Superintendent, Ongole, Prakasam District.

4 The Prohibition & Excise Superintendent, Krishna District.
5 The District Collector, Krishna District.

6 The Prohibition and Excise Superintendent, West Godavari District.
7 The District Collector, West Godavari District.

8 Deputy Commissioner of Prohibition and Excise, Kakinada Division at

Kakinada, East Godavari District.
9 Superintendent of Prohibition and Excise, East Godavari District at

Kakinada.
10. Superintendent of Prohibition and Excise, West Godavari District at Eluru.

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